

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 733 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHILODA GAM PANCHAYAT

Versus

TALUKA DEVELOPMENT OFFICER

Appearance:

MR SV PARMAR for Petitioner

None appeared for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 14/08/96

ORAL JUDGEMENT

I have heard Mr S P Parmar, learned Advocate for the petitioner. This matter was heard yesterday i.e. on 13.8.1996, but none appeared for the respondents namely, Taluka Development Officer, Gandhinagar, District Development Officer and Shri Ranchhodbhai Hargovandas Patel, President, Chiloda Char Rasta Vepari Mandal, Chiloda (D) and the matter was adjourned for today. Today also I waited but none appeared for the

respondents.

2. This case has a chequered history. But I am not required to set out the entire facts. Suffice it to say that the petitioner-Gram Panchayat, Chiloda (D) adopted a resolution-Annexure 'P' dated 18.4.1994 in exercise of powers under section 319 of the Gujarat Panchayat Act, 1961 corresponding to section 269 of the Gujarat Panchayat Act, 1993. (hereinafter referred to as 'the Act of 1993') By the said resolution, the Gram Panchayat has determined rent of the land encroached. This resolution was suspended by order dated 27.1.1995 passed by the Taluka Development Officer, Gandhinagar - respondent No.1.

3. It is contended by Mr S P Parmar, learned Advocate for the petitioner that the order of the Taluka Development Officer dated 27.1.1995 suspending the resolution passed by the petitioner-Panchayat is wholly without jurisdiction as appropriate order can be passed only by the District Panchayat or the Appeal Committee under the provisions of section 242 read with section 243 of the Act of 1993. In my view, there is substance in the contentions raised by Mr Parmar. Section 242 provides that an appeal shall lie to the District Panchayat against any order or decision of the Panchayat or Taluka Panchayat affecting any individual or institution. Section 243 empowers the Appeal Committee of the District Panchayat to exercise appellate powers. Sub-clause (vi) of section 243 empowers the Chairman of the Committee to pass just and proper order. Thus, apparently, the order passed by the Taluka Development Officer suspending the resolution of the petitioner-Panchayat is ex-facie illegal and void.

4. In view of the aforesaid, this petition is allowed and the order dated 27.1.1995 passed by the Taluka Development Officer, Gandhinagar is hereby quashed and set aside.

Rule made absolute accordingly with no order as to costs.

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